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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/445,135	03/13/2000	DARRELL WAYNE RANDALL	RCA88682	9528

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EXAMINER	
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ART UNIT	PAPER NUMBER
2614	14

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/445,135	RANDALL ET AL.	
	Examiner	Art Unit	
	Scott Beliveau	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 14 April 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In summary, the applicant argues that the particular concurrent display is done so for a particular purpose namely to make it easier to modify the search criteria based on the search results and quickly make multiple searches, however such arguments do not appear to have support in light of the applicant's specification.

The section entitled "Background of Invention" of the instant application sets forth that the problem in the prior art is that "users are not typically provided with ways to customize the program guide list or to categorize the program guide information" such that prior art systems "do not allow . . . a user to sort other categories or information related to the programs" (Page 3, Lines 11-23). Rather, the prior art, as characterized by applicant, is limited to being able to sort based solely on title information. The instant application further sets forth that it would be desirable to "provide a user with sorting capabilities so that the

user has greater flexibility to search and display programs. ... way to search for programs based on different program descripti... and efficient example, title, star, rating, director, or content of the programs, etc." (Pa... for The Youman et al. reference, as acknowledged in the applicant's response, so...6-31). problem of being operable to search for programs based on different program descrip...ted fields.

The examiner can find no support within the specification, as originally filled, so as to support applicant's conclusion that the particular usage of the "concurrent" display of the designated descriptive field as illustrated in applicant's Figure 9 is done so for the purpose as set forth in the applicant's arguments. In particular, the specification makes no reference to the instant application particularly solving the problem of concurrent display as argued by the applicant; namely, the time consuming process associated with conducting multiple searches to locate a desirable program in conjunction with concurrently displayed and selected program descriptive fields. Since applicant did not disclose such subject matter in conjunction with the specification as originally filed, it is unclear if the applicant is relying upon information that is deemed conventional or well-known to those of ordinary skill in the art in making such arguments. Rather, applicant's arguments/motivation appear to be simply based on the motivation to modify the reference provided in conjunction with the examiner's rejection. Furthermore, the embodiments illustrated in Figures 7 and 8 of the instant application would appear to suffer from the very problem that applicant is arguing that the instant invention solves in so far is there is no way for the user to select/modify a program descriptive field from the list of program descriptive fields. The "easy" nature of the

interface appears to be in conjunction with the ability combine both traditional television and computer television related information (Page 2, Line 24 – Page 3, Line 10) and the "efficient way to search" appears to be related to the particular usage of presorting records into hashed bins in order to quickly provide results to the user (Page 25, Lines 21-27). Neither is disclosed as being related to providing the user with a quick way in which to modify search criteria based on search results and to quickly make multiple searches. Additionally, the Youman et al. reference comprises the ability to facilitate multiple searches from within the same screen, as evidenced by the inclusion of a "back" or left arrow in conjunction with the text entry field. It is the examiner's interpretation that this provides the user with the ability to change previously entered text-searching criteria.

As to applicant's assertion that the Youman et al. reference teaches away from the claimed invention, the examiner is unable to find support within the Youman et al. reference so as to dissuade one having ordinary skill in the art from modifying the illustrated user interface in order to provide a user friendly means for selecting criteria without needing to switch between screens. Rather, the reference explicitly discloses that those of skill in the art will recognize that there are many possible variations to the embodiment of the search screens (Page 48, Lines 5-6). It is the examiner's opinion that the particular modification to concurrently display "concurrently a list of program descriptive files and an entry for entering a text string" is knowledge that was within the level of ordinary skill in the art at the time of the invention. For example, Figure 11A of the newly cited Hendricks et al. reference illustrates that it was commonly known for search interfaces to display "concurrently a list of program descriptive fields and an entry for entering a text string".

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youman et al. (WO 96/17473).

Claims 1, 6, and 12 are rejected in view of the Youman et al. reference, which discloses an "apparatus" [10] (Page 11, Lines 3-9) wherein "channel guide information" is searchable and alphabetically sorted under the direction of a "control means" [16]. The embodiment is operable to facilitate these operations via a "user control means" [31/40] (Figures 3-4) which enables a user to "select a program descriptive field from the list of program descriptive fields" [321] (Figure 38C; Page 48, Lines 5-14) and to subsequently "enter a text string" [330] (Figure 38F) to search for programming (Page 46, Lines Page 47, Lines 14-25).

Subsequent, to the entry of the "text string" [330] the "control means" [16] is operable to "perform an alphabetical sort of the programs based on the entered text string and the selected program descriptive field" and to "locate a first program with the respective program description" as is illustrated in Figure 38F (Page 47, Lines 26-33 – Page 48, Lines 1-4).

As aforementioned, the "list of program descriptive fields" [321] of Figure 38C is not displayed concurrently with the "entry for entering a text string" of Figure 38D. Accordingly, it would have been an obvious matter of design choice to modify the embodiment such that "list of program descriptive fields" [321] of Figure 38C is displayed concurrently with the "entry for entering a text string" of Figure 38D, in order to provide a user friendly means for selecting criteria without needing to switch between screens.

Claims 2, 7, and 13 are rejected wherein the list of programs as illustrated in Figure 38F displays the list of programs as being "alphabetically sorted" with the "first program" most closest to the entered character or characters highlighted (Page 47, Lines 26-30).

Claims 3 and 8 are rejected wherein the "program descriptive field may relate to title" [321]. As illustrated in Figure 38C, other "program descriptive fields" such as the "context of the programs" or theme may be utilized (Page 48, Lines 5-14).

As to the recited limitations in claims 4 and 9 wherein the sorting method moves "sentence articles" such that they are not used as the primary basis of searching, it is well known in the art to "move" or ignore indefinite and definite articles when sorting a list of descriptors such as titles. The Youman et al. reference further suggests that it may be desirable to exclude uninformative listings (Page 46, Lines 26-33). Accordingly, it would have been obvious to one of ordinary skill in the art to modify the aforementioned Youman et

al. searching method/technique so as to "move any sentence articles of the respective program description to the end of the respective program description" as is known in the art for the purposes of presenting the user with useful/meaningful search results regardless of variations of the use of the article.

In consideration of claims 5 and 10, the aforementioned reference does not explicitly disclose the scenario wherein "if the locating step cannot locate the first program . . . the next program on the alphabetical sorted list . . . is selected instead". As shown in Figure 38E, the reference illustrates that the search is operable to further display terms that "immediately follow the position where the first program" is located when sorted alphabetically. Accordingly, it would have been obvious to one of ordinary skill in the art to modify the invention to "select" the "next program on the alphabetical sorted list immediately following the position where the first program would have been located" in the event that the exact search string cannot be found for the purpose of providing the user with a search result set is closely related to the user defined "text string" to advantageously assist the user in locating programs should the aforementioned "text string" contain spelling errors.

Claim 11 is rejected wherein a viewer may further utilize the embodiment so as to "select another program descriptive field" in order to conduct the search operations against a "descriptive field" other than title as referenced in the rejection of claims 3 and 8.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of

claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Hendricks et al. (US Pat No. 5,798,785) reference discloses a system and method for suggesting programs offered on a television program delivery system. In particular, as illustrated in conjunction with Figure 11A, the embodiment illustrates displaying "concurrently a list of program descriptive files and an entry for entering a text string".

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the **advisory** action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907. The examiner can normally be reached on Monday-Friday from 9:00 a.m. - 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB
April 19, 2004

JOHN MILLER
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